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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,966	10/08/2001	Martin Zimmermann	3191/II1388-US1	2407
7590	03/09/2004		EXAMINER	
DARBY & DARBY P.C. 805 Third Avenue New York, NY 10022			DONNELLY, ARTHUR D	
			ART UNIT	PAPER NUMBER
			3663	

DATE MAILED: 03/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/973,966

**Applicant(s)**

ZIMMERMANN ET AL.

**Examiner**

Arthur D Donnelly

**Art Unit**

3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 08 October 2001.
- 2a) This action is **FINAL**.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-131 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 106-131 is/are allowed.
- 6) Claim(s) 1-3,42 and 43 is/are rejected.
- 7) Claim(s) 4-41 and 44-105 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 42 and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Ohtake 5,099,969.

Ohtake discloses a method operating a motor vehicle with an electronically controlled automatic clutch device, at least control device, and at least one data storage device for storing information comprising data values of operating quantities, data values operating parameters, data values of adaptive parameters, and check values, wherein at least one of the data values is subjected to the steps of storing the data value as a storage device; storing at least one check value for the data value as a storage value in the data storage device; wherein the at least one check value serves to verify whether the data value was entered correctly and wherein a predetermined checking characteristic is used for a verification (Column 9 lines 40-66); wherein at least part of the data values are values of operating parameters used for controlling the motor vehicle (Column 2 lines 3-29); wherein the a step comprises reading the data value from the control device (Column 2 lines 22-29); wherein the control device is reset at prescribed points in time (Column 5 lines 22-35); wherein the resetting takes place when the control device

receives one of an "ignition on" signal and a "wake up" signal (Column 7 line 62 through Column 8 line 25).

***Allowable Subject Matter***

Claims 4-41 and 44-105 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 106-131 are allowed.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Arthur Donnelly whose telephone number is (703) 305-0215. The examiner can normally be reached on Monday - Thursday on the first and third weeks of the month and from Monday - Friday on the second and forth weeks of the month from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Black, can be reached on (703) 305-9707. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

add  
March 1, 2004

  
THOMAS G. BLACK  
SUPERVISORY PATENT EXAMINER  
GROUP 3600